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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ENTROPIC COMMUNICATIONS,
LLC,

Plaintiff,

v.

COMCAST CORPORATION;
COMCAST CABLE
COMMUNICATIONS, LLC; and
COMCAST CABLE
COMMUNICATIONS
MANAGEMENT, LLC

Defendants.

ENTROPIC COMMUNICATIONS,
LLC,

Plaintiff,

v.

DISH NETWORK CORPORATION;
DISH NETWORK LLC; DISH

Case No.: 2:23-cv-01048-JWH-KES

**JOINT RESPONSE TO ORDER TO
SHOW CAUSE REGARDING
CONSOLIDATION**

[Judge John W. Holcomb; Magistrate
Judge Karen E. Scott]

Hearing Date: March 31, 2023

Time: 9:00am

Place: Courtroom 9D of the Ronald
Reagan Federal Building and U.S.
Courthouse, 441 W. 4th Street, Santa
Ana, California

Case No.: 2:23-cv-01043-JWH-KES

**JOINT RESPONSE TO ORDER TO
SHOW CAUSE REGARDING
CONSOLIDATION**

[Judge John W. Holcomb; Magistrate
Judge Karen E. Scott]

1 NETWORK SERVICE, LLC; and
 2 DISH NETWORK CALIFORNIA
 3 SERVICE CORPORATION,
 4 Defendants.

Hearing Date: March 31, 2023
Time: 9:00am
Place: Courtroom 9D of the Ronald
 Reagan Federal Building and U.S.
 Courthouse, 441 W. 4th Street, Santa
 Ana, California

5
 6 ENTROPIC COMMUNICATIONS,
 7 LLC,
 8 Plaintiff,
 9 v.
 10 COX COMMUNICATIONS, INC.;
 11 COXCOM, LLC; and COX
 12 COMMUNICATIONS , LLC,
 13 Defendants.

Case No.: 2:23-cv-01047-JWH-KES

Joint RESPONSE TO ORDER TO
 SHOW CAUSE REGARDING
 CONSOLIDATION

[Judge John W. Holcomb; Magistrate
 Judge Karen E. Scott]

Hearing Date: March 31, 2023
Time: 9:00am
Place: Courtroom 9D of the Ronald
 Reagan Federal Building and U.S.
 Courthouse, 441 W. 4th Street, Santa
 Ana, California

1 Plaintiff Entropic Communications, LLC (“Entropic” or “Plaintiff”), Defendants
 2 Comcast Corporation, Comcast Cable Communications, LLC, and Comcast Cable
 3 Communications Management, LLC (“Comcast”), Defendants DISH Network
 4 Corporation, DISH Network, LLC, DISH Network Service, LLC and DISH Network
 5 California Service Corporation (“DISH”), and Defendants Cox Communications, Inc.,
 6 CoxCom, LLC, and Cox Communications California, LLC (“Cox”) (jointly with
 7 Plaintiff, the “Parties”) hereby submit the following Response to the Court’s February
 8 21, 2023 Order to Show Cause Regarding Consolidation.

9 I. BACKGROUND

10 Entropic filed three cases on February 10, 2023 alleging patent infringement of
 11 the same group of patents by three different groups of defendants. Those cases, which
 12 include the instant action, are:

- 13 • *Entropic Communications, LLC v. DISH Network Corporation, et al.* Case
 14 No. 2:23-cv-01043, Filed February 10, 2023 (C.D. Cal.) (“DISH MoCA
 15 Action”).
- 16 • *Entropic Communications, LLC v. Cox Communications, Inc., et al.* Case
 17 No. 2:23-cv-01047, Filed February 10, 2023 (C.D. Cal.) (“Cox MoCA
 18 Action”).
- 19 • *Entropic Communications, LLC v. Comcast Corporation, et al.* Case No.
 20 2:23-cv-01048, Filed February 10, 2023 (C.D. Cal.) (“Comcast MoCA
 21 Action”) (together with the DISH MoCA Action and the Cox MoCA Action,
 22 the “MoCA Actions”).

23 As alleged in each complaint, the claims in all three cases arise under the patent
 24 laws of the United States, 35 U.S.C. § 1 et seq., including specifically 35 U.S.C.
 25 § 271, based on the defendants’ alleged infringement of the same twelve patents.
 26 Those patents include U.S. Patent Nos. 7,295,518, 7,594,249; 7,889,759; 8,085,802;
 27 9,838,213; 10,432,422; 8,631,450; 8,621,539; 8,320,566; 10,257,566; 8,228,910; and
 28 8,363,681 (collectively the “Patents-in-Suit” or “Asserted Patents”). (Docket Entry

1 “DE” 1 in all MoCA Actions.) Entropic contends these patents all incorporate
 2 various elements of technology set forth in the Multimedia over Coax Alliance
 3 standards (the “MoCA” standards). (*Id.* at 3.)

4 In connection with filing each complaint, Entropic also filed notices of related
 5 cases due to each case’s relatedness to each other, as well as to an existing case
 6 entitled *Entropic Communications, LLC v. DirecTV, LLC, et al.*, 2:22-cv-07775-JWH-
 7 JEM (C.D. Cal.). (DE 5 in all MoCA Actions.) The Court deemed the cases related
 8 and transferred them to the Honorable John W. Holcomb on February 15 and 16,
 9 2023. (DE 16 in the Comcast MoCA Action and Cox MoCA Action.)

10 On February 21, 2023, this Court issued an Order to Show Cause Regarding
 11 Consolidation (the “Order”). (DE 17 in the Comcast MoCA Action and Cox MoCA
 12 Action.) The Court ordered the Parties to show cause why the three MoCA Actions
 13 should not be consolidated for pretrial purposes, and further ordered the Parties to
 14 submit a joint response detailing their collective or respective positions regarding
 15 pretrial consolidation. (*Id.*)

16 After serving the Order on all Defendants, Entropic initiated meet and confer
 17 discussions regarding the Parties’ positions on consolidation of the MoCA Actions,
 18 which positions are detailed below.

19 **I. ENTROPIC’S POSITION REGARDING CONSOLIDATION**

20 Entropic’s position is that the MoCA Actions should be consolidated for all
 21 pretrial purposes. As noted in the Court’s order, there is obvious overlap in subject
 22 matter between the three MoCA Actions, and Entropic believes consolidation will
 23 allow both the Court and the Parties to leverage this overlap to reduce burden on the
 24 Court and increase efficiency for the Parties and Court alike through all pre-trial
 25 phases of the case.

26 **A. Consolidation Will Reduce Burden on the Court**

27 Consolidation of the MoCA Actions will reduce burden on the Court by 1)
 28 reducing the number of duplicative filings and orders, 2) reducing the number of

1 separate hearings on procedural and substantive issues the Court must schedule, and
2 3) allowing the Court to resolve similar issues of law and fact in a single case rather
3 than three separate cases, thereby avoiding the risk of inconsistent rulings.

4 First, consolidation would reduce duplicative filings and orders on similar
5 topics, such as scheduling orders, briefing schedules, protective orders, ESI orders,
6 joint status reports, and motion practice on similar issues. For example, this would
7 mean a single case schedule and protective order rather than three separate case
8 schedules and protective orders.

9 Second, consolidation would allow the Court to hold one joint hearing rather
10 than three separate hearings on the above issues (including the Scheduling Conference
11 and Status Conferences) or other issues such as Markman hearings, technology
12 tutorials for all twelve Patents in Suit, and other pretrial motions. The same is true for
13 any discovery disputes between the parties, which could be more easily resolved in a
14 single case rather than three separate cases. This will keep the Court's calendar
15 moving efficiently and allow the Court to more easily manage the Parties during the
16 pendency of the case.

17 Finally, consolidation would allow the Court to resolve similar issues of law
18 and fact related to the patents in each action in a single case rather than three separate
19 cases, thereby avoiding the risk of inconsistent rulings. All three MoCA Actions relate
20 to the infringement of Entropic's patents that incorporate various elements of
21 technology set forth in the MoCA standards by telecommunication products and/or
22 services provided by the defendants. Further, the accused products in both actions are
23 similar and incorporate the same or similar chips from a third party manufacturer
24 Broadcom. In addition, the accused services, which are provided by the defendants in
25 each action by means of the accused products, are similar telecommunication services.
26 As such, consolidation would allow the Court to more efficiently resolve these issues
27 of law and fact as they relate to the same twelve patents asserted in each MoCA
28 Action in a single case. Given the perfect overlap of Asserted Patents between all

1 three cases, the benefit to the Court in resolving all issues in a single case would be
2 considerable.

3 **B. Consolidation Will Increase Efficiency for the Parties**

4 Furthermore, consolidation would benefit the Parties by allowing for increased
5 efficiencies for all of the reasons stated above as well as for purposes of streamlining
6 discovery. Discovery issues—including issues related to Entropic’s witnesses and
7 documents—will be substantially similar between all three MoCA Actions, which
8 would lead to increased efficiency if the actions were consolidated. The same third
9 parties will be at issue in the instant action and the other two MoCA Actions, as the
10 accused products in both cases incorporate the same or similar chips from third party
11 manufacturer Broadcom. Similar efficiencies are to be had in scheduling depositions,
12 meeting and conferring regarding discovery and substantive motions, and reducing the
13 duplicative depositions of the same witness in each case. Furthermore, any individual
14 or entity subject to third party discovery will enjoy the same benefit, and both the
15 Parties and the Court can resolve third party discovery issues for the same third parties
16 in one case rather than in three. The efficiencies gained by the Parties would benefit
17 not only the Parties, but also the Court in resolving any disputes that may arise related
18 to scheduling, discovery, procedural issues, or motion practice.

19 Defendants expressed a concern regarding limitations imposed on their
20 discovery following consolidation. Although this Response is not the right setting to
21 discuss this issue, Entropic believes that entirely separate discovery is unwise because
22 efficiencies are available by various aspects of consolidated discovery. For example,
23 burden on both the Court and Parties could be limited through fewer stipulated
24 protective orders, fewer ESI orders, and streamlined written discovery and deposition
25 scheduling.

26 Entropic further understands that Defendants propose that “additional measures
27 should be taken to facilitate case management” due to the “sheer volume of asserted
28 patents” such as “reduction in asserted claims.” Entropic notes that the number of

1 asserted patents and claims will be the same whether or not the cases are consolidated.
 2 Insofar as case management goes, this Response is again not the right setting to
 3 discuss those issues. However, Entropic notes that it stands behind its Complaints and
 4 the claim charts attached thereto. Defendants are welcome to accelerate the natural
 5 process in every patent case of focusing the claims in dispute by sharing discovery
 6 and invalidity contentions with Entropic earlier than required by the Rules, and
 7 joining Entropic in seeking an accelerated Markman process. Entropic is also happy to
 8 meet and confer regarding case management issues in advance of the Case
 9 Management Conference once Defendants have answered the complaint.

10 For the foregoing reasons, Entropic respectfully requests that all three MoCA
 11 Actions be consolidated for pretrial purposes.

12 **II. COMCAST, COX, AND DISH DEFENDANTS' POSITION**

13 **REGARDING CONSOLIDATION**

14 The Comcast, Cox, and DISH Defendants (collectively "Defendants") do not
 15 object to consolidation for pretrial purposes of the Comcast, Cox, and DISH MoCA
 16 Actions¹ as long as each Defendant is capable of taking discovery independently,
 17 briefing limits will not be impacted, and Defendants are afforded the right to an
 18 independent trial on all issues. While all three actions involve the same plaintiff and
 19 the same asserted patents, the Defendants each expect to have unique defenses and
 20

21 _____
 22 ¹ DISH's position re further consolidation: To the extent the Court's Order to Show
 23 Cause contemplates consolidation with *Entropic Communications, LLC v. DirecTV,
 24 LLC, et al.*, 2:22-cv-07775-JWH-JEM (C.D. Cal.), which is itself a consolidation of
 25 two other Entropic cases filed a year ago concerning the technologically distinct
 26 Outdoor Unit single wire technology (the "ODU Cases"), DISH opposes further
 27 consolidation. The ODU Cases involve distinct parties, different technology, and
 28 non-overlapping patents. Indeed, beyond DISH, the ODU Cases do not include either
 of the other Defendants here—Cox and Comcast—but do include non-parties to the
 instant case—AT&T and DirecTV. Further consolidation of the instant case and the
 ODU Cases, therefore, is unlikely to save any judicial resources and the result would
 be an unnecessarily complicated proceeding more likely to add to the Court and
 parties' burden in litigating the respective cases. DISH requests an opportunity to
 provide supplemental briefing on this issue if the Court is considering further
 consolidation of the instant case and the ODU Cases.

1 counterclaims, and expect to emphasize different issues in their respective cases.² In
 2 addition, the Defendants offer competing services, and expect that they will have
 3 confidential information that cannot be shared between the Defendants. Accordingly,
 4 the ability to serve independent written discovery, pursue their own deposition
 5 testimony, and file their own briefs (*e.g.*, *Markman*, summary judgment, and discovery
 6 motions) will be important in allowing Defendants an opportunity to mount a full and
 7 fair defense. With the understanding that no party will be prejudiced by consolidation
 8 because no discovery limits or briefing limits will be impacted, and the forthcoming
 9 schedule can take into account any additional time necessary as a result of the increased
 10 number of defendants, Defendants do not oppose consolidation. In addition, should the
 11 issues in one case diverge sufficiently, Defendants believe it may be appropriate to sever
 12 one or more of the cases.

13 Defendants also believe additional measures should be taken to facilitate case
 14 management and judicial efficiency. Plaintiff has asserted twelve (12) patents in these
 15 cases. The sheer volume of asserted patents will make these cases unwieldy and
 16 warrant a reduction in the number of asserted claims. Defendants would propose that
 17 the parties meet and confer to provide the Court with a recommended approach for
 18 this reduction in asserted claims, and that the Court should order a procedure and
 19 schedule for implementing this reduction to facilitate management of these cases.

20 **SIGNATURE CERTIFICATION**

21 Pursuant to L.R. 5-4.3.4(a)(2)(i), I, Christina N. Goodrich, attest that all other
 22 signatories listed herein and on whose behalf the filing is submitted concur in the
 23 filing's content and have authorized the filing.

24
 25
 26 ² Defendants presently take no position on Entropic's statements concerning
 27 Broadcom and potential third-party discovery. Defendants would note that the claim
 28 charts attached to each of Entropic's complaints make no mention of Broadcom chips.
 In addition, the complaint sets forth no basis to identify all of the Broadcom chips
 allegedly used by each Defendant, and what similarities or differences exist between
 those various Broadcom chips.

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K&L GATES LLP

Dated: March 10, 2023

By: /s/ Christina N. Goodrich

Christina Goodrich
Connor J. Meggs

Attorneys for Plaintiff Entropic
Communications, LLC

Dated: March 10, 2023

WINSTON & STRAWN

By: /s/ K. Padmanabhan
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Attorneys for Defendants
Comcast Corporation; Comcast Cable
Communications, LLC
; and Comcast Cable Communications
Management, LLC

Dated: March 10, 2023

**KILPATRICK TOWNSEND &
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By: /s/ April E. Isaacson
April E. Isaacson

Attorneys for Defendants
Cox Communications, Inc.;
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Communications California, LLC

Dated: March 10, 2023

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DISH Network Corporation;
DISH Network L.L.C.; Dish
Network Service L.L.C.; and
DISH Network California Service
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